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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SONYA RENEE *et al.*,

Plaintiffs,

v.

MARGARET SPELLINGS, in her official capacity;
UNITED STATES DEPARTMENT OF EDUCATION,
Defendants.

Case No. 07-04299 PJH

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR SUMMARY
JUDGMENT**

Time: 9:00 a.m.
Date: April 23, 2008
Courtroom: 3, 17th floor

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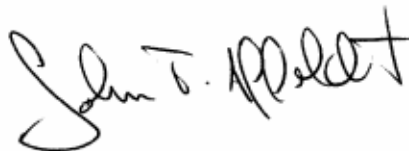
TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that at 9:00AM on April 23, 2008, or as soon thereafter as counsel may be heard, in the courtroom of the Honorable Phyllis J. Hamilton, located at 450 Golden Gate Avenue in San Francisco, California, Plaintiffs will and hereby do move the Court, pursuant to Federal Rule of Civil Procedure 56, for summary judgment on the ground that there is no genuine issue as to any material fact and that Plaintiffs are entitled to judgment as a matter of law. Defendants' regulation defining "highly qualified teacher" to include individuals "participating in an alternative route to certification" and merely making "satisfactory progress" toward full certification, (34 C.F.R. § 200.56(a)(2)(ii)), exceeds the scope of the federal No Child Left Behind Act and thereby violates the Administrative Procedure Act (5 U.S.C. §§ 701-706).

This motion is based on the pleadings and records on file in this action, on the attached memorandum of points and authorities and exhibits in support, on the attached declarations in support of this motion and upon such evidence as might be presented at the hearing on this motion.

Dated: January 18, 2008

Respectfully submitted,



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